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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

800 Data Base Access Tariffs)
and the 800 Service)
Management System Tariff)

CC Docket No. 93-129

OPPOSITION OF NATIONAL DATA CORPORATION TO DIRECT CASES

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TABLE OF CONTENTS

	<u>Page</u>
SUMMARY OF POSITION.	ii
I. THE LECS HAVE FAILED TO DEMONSTRATE THAT THEIR PROPOSED BASIC 800 DATA BASE ACCESS RATES ARE JUST AND REASONABLE.	3
a. The LECS Have Failed to Provide the Kind of Detailed Information Necessary to Determine Whether the Proposed Rates Are Just and Reasonable or Comply With the <u>800 Data Base Pricing Order</u>	5
b. The LECS Have Failed to Demonstrate That Certain Costs Classified as Exogenous Were "Specifically Incurred" for the Implementation of Basic 800 Data Base Access.	7
1. General Network Upgrades	8
2. Shared SCP Costs	11
3. Overhead Expenses	13
4. Separation of Interstate and Intrastate Costs	14
II. THE LECS HAVE FAILED TO DEMONSTRATE THAT THEY HAVE USED REASONABLE RATEMAKING METHODOLOGIES IN DEVELOPING THEIR BASIC 800 DATA BASE ACCESS RATES.	15
III. CONCLUSION	17

SUMMARY OF POSITION

The LECs have failed to demonstrate, either in their direct cases or in their supplemental filings, that their proposed rates for basic 800 data base access are just and reasonable. In many cases, the LECs have not provided the kind of detailed information necessary to determine whether the proposed rates are just and reasonable or comply with the 800 Data Base Pricing Order. The LECs have also failed to demonstrate that many of their claimed exogenous costs were "specifically incurred" in the implementation of basic 800 data base access. Indeed, many of the LECs have claimed as exogenous costs general network upgrades, shared SCPs, and overhead, in direct conflict with the 800 Data Base Pricing Order. A number of LECs have also improperly separated interstate and intrastate costs on a relative use basis. Finally, at least two LECs, Bell Atlantic and NYNEX, have continued to use levelized demand methodologies that would inflate their cost recovery.

The Commission should therefore direct the LECs to exclude excessive exogenous costs from their cost support, adjust their improper demand methodologies, and reduce their basic 800 data base access rates accordingly.

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OPPOSITION OF NATIONAL DATA CORPORATION TO DIRECT CASES

National Data Corporation ("National Data"), by its attorneys, hereby submits the following comments on the direct cases filed by Ameritech Services ("Ameritech"), the Bell Atlantic Telephone Companies ("Bell Atlantic"), BellSouth Telecommunications, Inc. ("BellSouth"), Cincinnati Bell, GTE Service Corporation ("GTE"), the NYNEX Telephone Companies ("NYNEX"), Pacific Bell and Nevada Bell, Southern New England Telephone Company ("SNET"), Southwestern Bell, and U S West Communications, Inc. ("U S West") (collectively, "the LECs") in response to the Common Carrier Bureau's Order of July 19, 1993 ("Designation Order")¹ on September 20, 1993. This opposition also addresses the supplemental materials filed by several of the LECs on March 15, 1994 in response to the Bureau's order of January 31, 1994, in which the Bureau denied a joint petition for waiver filed by the LECs.² The joint

¹ See 800 Data Base Access Tariffs and the 800 Service Management System Tariff, 8 FCC Rcd 5132 (1993) [hereinafter "Designation Order"].

² See 800 Data Base Access Tariffs and the 800 Service Management System Tariff, 9 FCC Rcd 715 (1994).

petition asked the Bureau to waive the requirement that the LECs disclose detailed cost support, including the computer models or other means used to develop their proposed rates.

The Bureau initiated this investigation because it was presented with substantial evidence that the LECs had unlawfully attributed costs to basic 800 data base access in developing the tariffs which they filed with the Commission on March 1, 1993. More specifically, National Data and others pointed out that the LECs had proposed rates for basic 800 data base access that were based on costs other than those "specifically incurred" for the implementation and operation of data base access.³ In response to these concerns, the Common Carrier Bureau suspended the tariff transmittals for one day, imposed accounting orders and initiated investigations of the LECs' 800 data base tariffs.⁴ On July 19, 1993, the Bureau issued the Designation Order, which set forth the issues to be examined in this proceeding.⁵ Shortly thereafter, the LECs filed their direct cases, in which they purported to respond to the issues raised by the Bureau.

In the discussion which follows, National Data will address the LECs' responses to Issue 3, as identified by the Bureau's Designation Order:

Issue 3: The reasonableness of the price cap LECs' 800 data base rates.

³ See, e.g., Consolidated Petition to Reject or, in the Alternative, to Suspend and Investigate of National Data Corporation, CC Docket No. 86-10, at 6-9 (filed Mar. 18, 1993) [hereinafter "National Data Petition"].

⁴ See 800 Data Base Access Tariffs and the 800 Service Management System Tariff, 8 FCC Rcd 3242 (1993).

⁵ See generally Designation Order.

Subissue: Are the exogenous costs claimed by the price cap LECs' reasonable?

Subissue: Have the LECs used reasonable rate making methodologies in developing their basic query rates?

As set forth below, the LECs have failed to demonstrate, either in their direct cases or in their supplemental filings, that their proposed rates for basic 800 data base access are just and reasonable.⁶ The Commission should therefore direct the LECs to revise their cost support data by excluding excessive exogenous costs and by adjusting their improper demand assumptions, and to reduce their basic 800 data base access rates accordingly.

I. THE LECs HAVE FAILED TO DEMONSTRATE THAT THEIR PROPOSED BASIC 800 DATA BASE ACCESS RATES ARE JUST AND REASONABLE.

Issue 3, as identified by the Bureau's Designation Order, concerns the reasonableness of the price cap LECs' 800 data base access rates. In addressing this issue, the Commission should keep in mind the admonition of the Designation Order that "the carriers bear the burden of proof to show that new or revised rates are just and reasonable."⁷ A critical factor in determining whether the proposed rates are just and reasonable is the LEC's compliance with the costing and pricing guidelines set forth in the Commission's January 29, 1993 Order ("800 Data Base Pricing Order").

⁶ National Data, together with other users, commissioned a study of the LECs' direct cases and supplemental materials. The resulting report, prepared by Economics and Technology, Inc., is attached hereto. See Economics and Technology, Inc., Analysis of Local Exchange Carrier 800 Data Base Direct Case Filings (Apr. 21, 1994) [hereinafter "ETI Report"].

⁷ Designation Order, 8 FCC Rcd at 5138 (emphasis added).

In that order, the Commission properly determined that basic 800 data base access is a "restructured service" for price cap purposes. The Commission also concluded that certain 800 data base access costs should be accorded "exogenous" treatment. In doing so, the Commission carefully delineated the costs which would qualify for exogenous treatment and unambiguously excluded "those costs which are not reasonable and which are not specifically incurred for the implementation and operation of the 800 data base system, such as core S[ignalling] S[ystem] 7 costs."⁸ The Commission also affirmed that the LECs bear the burden of demonstrating that any costs claimed to be exogenous were incurred specifically for the implementation of basic 800 data base access.

To satisfy this burden of proof, the LECs must demonstrate that individual incremental costs would not have been incurred but for the implementation of basic 800 data base access. In other words, any claimed exogenous costs must be shown to have been incurred in addition to -- and not as part of -- costs that would otherwise be incurred to increase network efficiency or upgrade the network. Any other conclusion would allow the LECs to recover these costs twice: once through exogenous treatment and once through the ordinary operation of the Commission's price cap rules.

⁸ Provision of Access for 800 Service, 8 FCC Rcd 907, 911 (1993) [hereinafter "800 Data Base Pricing Order"].

- a. The LECs Have Failed to Provide the Kind of Detailed Information Necessary to Determine Whether the Proposed Rates Are Just and Reasonable or Comply With the 800 Data Base Pricing Order.

The Bureau initiated this proceeding in large part because the LECs failed to provide enough information to enable the Commission to determine whether the LECs' proposed rates were just and reasonable. Notwithstanding the LECs' obligation to demonstrate that their rates are just and reasonable, the carriers have failed to provide the kind of information necessary to make such a determination. In a number of cases, the LECs simply have not complied with the terms of the Designation Order. For example, Ameritech, NYNEX, Southwestern Bell and U S West failed to file revised versions of Appendix B of the Designation Order as part of their supplemental filings. The cost support data provided by the LECs' direct cases are also plainly inadequate. So, too, is the description of how these data were used to derive the carriers' proposed rates for basic data base access. As explained by Economics and Technology, Inc. ("ETI") in their report accompanying this opposition, "it is still virtually impossible to get 'behind' the exogenous cost calculations of each of the carriers and know exactly what is included, and how the bottom line results were achieved."⁹

The LECs' direct cases are plagued by generalized, conclusory statements that leave little room for analysis. Such statements do not permit an informed determination whether costs were properly attributed or whether the proposed rates are reasonable. In this regard, a number of the LECs have described general categories of

⁹ ETI Report at 5.

costs which they claim to be exogenous, but have failed to disaggregate their exogenous costs.¹⁰ Without this disaggregation, it is impossible to determine whether the costs claimed to be exogenous are reasonable and whether they were specifically incurred to implement and operate the 800 data base system.

Where the carriers have disaggregated their costs, they have not justified their treatment as exogenous. A typical example is provided by Bell Atlantic's direct case. Although Bell Atlantic has disaggregated most cost components for which exogenous treatment is claimed, it has failed to demonstrate that these costs were specifically incurred to provide basic 800 data base access. Thus, while Bell Atlantic claims that certain "non-capital expenses" were "incurred for the May 1, 1993 provisioning of the basic query for 800 Data Base Access," it provides no further explanation.¹¹

Another example of this lack of specificity is BellSouth's claim that the "Service Control Points (SCPs) dedicated to 800 Data Base Service, and associated Land and Building Costs . . ." should be accorded exogenous treatment.¹² As the ETI Report points out, BellSouth has not provided any data to support this claim. In particular, BellSouth has not even attempted to demonstrate that the overall level of its land and

¹⁰ See, e.g., U S West Direct Case, CC Docket No. 93-129, at 3 (filed Sep. 20, 1993); Direct Case of Southwestern Bell Telephone Company, CC Docket No. 93-129, at 6-8 (filed Sep. 20, 1993).

¹¹ Supplement to Direct Case of the Bell Atlantic Telephone Companies, CC Docket No. 93-129, at 4-6 (filed Mar. 15, 1994) [hereinafter "Bell Atlantic Supplement"].

¹² Direct Case of BellSouth Telecommunications, Inc., CC Docket No. 93-129, at 2 (filed Sep. 20, 1993).

building expenses have been impacted at all by the implementation of basic 800 data base access.¹³

Given the LECs' failure to provide detailed cost information, the high levels of exogenous costs which they claim, and their inexplicably high rates for basic data base access, it is very likely that the LECs have improperly classified nonexogenous costs as exogenous. The generalized cost support data filed by the LECs in this proceeding certainly do not permit the Commission to find otherwise. Because the LECs have failed to satisfy their burden of proof, the Commission should direct the LECs to exclude all inadequately supported costs and file revised 800 data base rates.

b. The LECs Have Failed to Demonstrate That Certain Costs Classified as Exogenous Were "Specifically Incurred" for the Implementation of Basic 800 Data Base Access.

The first subissue identified by Issue 3 of the Designation Order solicits comment on whether the exogenous costs claimed by the price cap LECs are reasonable. In the 800 Data Base Pricing Order, the Commission unambiguously stated that "core" Signalling System 7 costs would not be afforded exogenous cost treatment. Indeed, the Commission expressly limited exogenous treatment to "those costs associated with: Service Control Points (SCPs), the Service Management System (SMS), and links between SCPs and the SMS, as well as between Signal Transfer Points (STPs) and SCPs, to the extent such costs are directly attributable to 800 data base service."¹⁴ In this

¹³ See ETI Report at 11.

¹⁴ 800 Data Base Pricing Order, 8 FCC Rcd at 911 (emphasis added).

regard, it is significant that the Commission did not talk about "allocated" costs. The Commission also made clear that the LECs have the burden of demonstrating that any claimed exogenous costs were "incurred specifically for the implementation of basic 800 data base service."¹⁵

Notwithstanding their burden of proof, the LECs have failed to demonstrate that many of their claimed exogenous costs were "incurred specifically" in the implementation of basic 800 data base access. The specific examples set forth below, as well as those discussed in greater detail in the accompanying ETI Report, are typical of the types of costs for which the LECs have improperly claimed exogenous treatment.

1. General Network Upgrades

Capacity additions and facility modernization are ordinary events in the daily business of a LEC. These expenses are accounted for by the Commission's price cap rules. This is entirely appropriate since the capacity available in new switches and digital computer systems, such as Service Control Points ("SCPs"), Service Transfer Points ("STPs"), and Service Switching Points ("SSPs"), is often used to serve a number of telecommunications network functions and applications. Almost all of the LECs, however, have attempted to gain exogenous treatment for these types of costs without demonstrating that they were specifically incurred to implement basic 800 data base access.

¹⁵ Id.

Pacific Bell, for example, has included nearly \$7.62 million in exogenous costs related to tandem switch upgrades.¹⁶ Although Pacific Bell maintains that these upgrades are necessary to provide basic 800 data base service, it has not explained why. Such claims, standing alone, are not enough to justify the exogenous treatment of these costs. Moreover, it appears that these upgrades would have occurred in any event, absent the implementation of the 800 data base, as a part of Pacific Bell's \$1 billion program to accelerate the modernization of its switches.¹⁷

Similarly, Bell Atlantic has similarly proposed exogenous cost treatment for future local STP investment.¹⁸ Such additional local STP investment, however, is typically related to future growth in demand and the introduction of new services. Bell Atlantic has not explained why future local STP investment is directly attributable to basic 800 data base access or why such investment should not be considered part of its normal growth and modernization plans, as contemplated by the price caps formula.

Ameritech, BellSouth, Pacific Bell, GTE, Southwestern Bell and U S West have included SSP costs in their exogenous cost calculations. None of the carriers, however, has specified why these costs should be assigned to basic 800 data base access. The LECs have failed to provide sufficient information to determine whether the SSPs contain functionalities beyond those required for basic 800 data base access, or whether the SSPs will be used for other services in the future. Nor have the LECs addressed

¹⁶ See Direct Case of Pacific Bell and Nevada Bell, CC Docket No. 93-129, at Attachment B (filed Sep. 20, 1993).

¹⁷ See ETI Report at 15.

¹⁸ See Bell Atlantic Supplement at Attachment A.

whether the SSPs were scheduled to be implemented regardless of the deployment of the 800 data base.

A number of the LECs have also classified certain non-capital expenses as exogenous, without attempting to explain why such expenses are specifically attributable to basic 800 data base access. For example, Ameritech has improperly classified as exogenous certain SS7 expenses associated with computer software and the maintenance of SCP computers.¹⁹ Software expenses incurred by Ameritech, Bell Atlantic, BellSouth and Southwestern for SSP Right-to-Use fees and programming changes to facilitate the switch from 6-digit to 3-digit number translation fall into the same category.

Bell Atlantic's supplemental filing details \$2.1 million in expenses related to an "800 Repair Center."²⁰ Bell Atlantic's sole justification for this exogenous treatment is that "this center handles repair calls from interexchange carriers and from other customers unable to complete an 800 call."²¹ It is unclear why the handling of 800 repair calls should be granted exogenous treatment. Presumably, Bell Atlantic received calls from interexchange carriers and customers unable to complete 800 calls prior to the implementation of the 800 data base, and that function is encompassed in the revenue collected under the present price caps formula. Even if Bell Atlantic's "800 Repair

¹⁹ See Direct Case of the Ameritech Operating Companies, CC Docket No. 93-129, at 7-10 (filed Sep. 20, 1993).

²⁰ See Bell Atlantic Supplement at 5-6; Direct Case of the Bell Atlantic Telephone Companies, CC Docket No. 93-129, at Appendix C (filed Sep. 20, 1993) [hereinafter "Bell Atlantic Direct Case"].

²¹ Id.

Center" were new, the carrier has not provided any analysis of the costs that were being previously incurred to respond to 800 service complaints, nor has it demonstrated that the "800 Repair Center" costs for which it claims exogenous treatment are incremental to the costs it was incurring for 800 repair service prior to the switch to data base access.

2. Shared SCP Costs

Ameritech, Bell Atlantic, BellSouth, Pacific Bell, Southwestern Bell and U S West have also improperly classified as exogenous the investment associated with SCPs that are shared by different services.²² Certain of these carriers have allocated the SCP investment between basic 800 data base access and other services (predominantly line information data base ("LIDB")) on a "relative use" basis. This method of allocation is flawed for several reasons. First, it fails to account for future uses of the SCP. LIDB and basic 800 data base access are but two of the multiple uses to which SCPs may be allocated in the future. NYNEX has allocated 100% of an SCP to basic 800 data base access because this service is the only one currently provided through the SCP.²³ NYNEX, however, does not address whether the SCP is likely to be shared by other services in the future. The SCP exogenous costs claimed by Ameritech, Bell Atlantic, BellSouth and U S West suffer from the same infirmity.

The second difficulty with a relative use method of allocation is that it fails to account for the differing costs of handling basic 800 data base access queries, as

²² See ETI Report at 21-23.

²³ See Direct Case of the NYNEX Telephone Companies, CC Docket No. 93-129, at Attachment A-5 (filed Sep. 20, 1993) [hereinafter "NYNEX Direct Case"].

compared to other service queries. Instead, the LECs have inappropriately allocated costs on an undifferentiated query count basis, without regard to the specific cost of a particular type of query.

In addition, at least one LEC, U S West, has claimed exogenous cost treatment for shared basic 800 data base access costs even though the SCP in question is primarily used by other services. In particular, U S West has allocated twenty-five percent of a shared SCP pair to basic 800 data base access, and seventy-five percent to LIDB.²⁴ As the ETI Report points out, an SCP which is seventy-five percent dedicated to LIDB would plainly exist even in the absence of 800 basic data base access.²⁵ The costs associated with such an SCP clearly were not "specifically incurred" for the implementation of basic 800 data base access, and should thus not be granted exogenous treatment. The same analysis applies to U S West's allocation of local STP and remote STP transport links to basic 800 data base access based on relative use. This investment would unquestionably have been made regardless of basic 800 data base access, and should not be accorded exogenous treatment.

²⁴ See Supplement to Direct Case of U S West, CC Docket No. 93-129, at Appendix A-1 (filed Mar. 15, 1994).

²⁵ See ETI Report at 22-23.

3. Overhead Expenses

The Commission's 800 Data Base Access Tariff Order clearly stated that overhead should not be included in the LECs' estimated direct costs of providing basic 800 data base access. Despite this admonition, at least two carriers, Bell Atlantic and SNET, have continued to claim such costs. For Bell Atlantic, these costs include those associated with "training, education and methodology development" and "links, software patches and network upgrades." Bell Atlantic admits that the costs it classifies as overhead would "generally be recovered through overhead included in normal rate levels."²⁶ Exogenous cost treatment is nonetheless warranted for these costs, Bell Atlantic claims, because of the "intensity of activities" and "deployment deadlines" associated with the implementation of basic 800 data base access. Indeed, Bell Atlantic claims such activities "caused an increase in overhead typically associated with a new service and which should, therefore, be recovered in overhead associated with exogenous costs."²⁷

In effect, Bell Atlantic is attempting to circumvent the Commission's rulings. Having failed to persuade the Commission to treat basic 800 data base access as a new service for price cap purposes, it is now seeking to gain de facto new services treatment by unlawfully claiming overhead costs as exogenous. The Commission should not allow Bell Atlantic to do so.

²⁶ Bell Atlantic Direct Case at Appendix B-4.

²⁷ Id. (emphasis added).

4. Separation of Interstate and Intrastate Costs

Investments undertaken to implement basic 800 data base access should be separated between the interstate and intrastate jurisdictions on the same basis as all other plant and equipment. In developing their exogenous costs, however, Ameritech, Bell Atlantic, NYNEX and Pacific Bell have separated costs based upon the relative proportion of the facility utilized for interstate service, rather than as specified in Part 36 of the Commission's rules. Since the demand data presented by the LECs indicate that the vast majority of 800 data base calls are interstate in nature, a "relative use" allocator inappropriately results in a larger amount of the overall investment being recovered through interstate access prices than is actually allocated to the interstate jurisdiction by Part 36. Although Southwestern Bell appears to have separated investments using Part 36, it has improperly separated expenses on a relative use basis. The LECs should be required to develop exogenous costs using Part 36 of the Commission's rules.

As the foregoing examples demonstrate, the LECs have failed to provide sufficient detail or explanation to satisfy the burden imposed upon them by the 800 Data Base Pricing Order to justify the "exogenous" costs underlying their proposed rates. The Commission should therefore direct the LECs to revise their cost support data to exclude the kinds of costs identified above, and discussed in greater detail in the ETI Report, for which they have not justified exogenous treatment. The Commission should also require the LECs to reduce their proposed rates for basic 800 data base access to reflect these revisions.

II. THE LECS HAVE FAILED TO DEMONSTRATE THAT THEY HAVE USED REASONABLE RATEMAKING METHODOLOGIES IN DEVELOPING THEIR BASIC 800 DATA BASE ACCESS RATES.

The second subissue of Issue 3, as identified by the Bureau, asks whether the LECs have used reasonable ratemaking methodologies in developing their basic query rates. At least two of the LECs, Bell Atlantic and NYNEX, have continued to use ratemaking methodologies that would inflate their cost recovery.²⁸ Other LECs may have used similar methodologies, but have not provided sufficient information to make this determination. In the case of Bell Atlantic and NYNEX, the carriers have used demand assumptions which have double-counted future demand growth. More specifically, demand changes are reflected once in the levelized five-year growth used to calculate exogenous costs and again as the LECs' price cap indices are updated each year.

As the ETI Study previously submitted to the Commission as part of National Data's consolidated petition to reject or suspend recognized, this problem is typical of carriers that use CCSCIS as a costing model. As ETI explained:

[I]f an LEC used a disaggregated - or "tops down" - cost approach to develop a unit cost for basic 800 queries, it might consistently utilize a demand volume that represented a levelized demand forecast. Such an approach might, hypothetically, be used to smooth out the top-down unit cost data. However, when an LEC uses a costing tool such as CCSCIS, it is creating a unit cost that it built up from the individual resource costs incurred by a database query. Levelizing the recurring portion of costs identified by a process such as CCSCIS over future demand results in changes in the carrier's exogenous cost value reflecting the rate of changes in demand. Because 800 service

²⁸ See Bell Atlantic Direct Case at 6-7; NYNEX Direct Case at 10-11.

demand is growing quite rapidly, the levelized demand calculation significantly inflates the value of exogenous costs in these submissions. In fact, any LEC that utilized a "bottom-up" unit cost approach, even in part, to develop the magnitude of its proposed exogenous cost adjustment could face this type of problem.²⁹

Although National Data and others raised concerns about the use of a levelized demand methodology, these LECs have failed to correct the error. Bell Atlantic attempts to explain its demand forecasting, but it has not addressed the double-counting problem.³⁰ NYNEX's direct case suffers from the same flaw.³¹ Although both of these carriers assert that the use of five-year levelized demand figures produces accurate initial prices, neither LEC has made any attempt to address the fact that such demand forecast estimates will result in double-counting over the long term.³²

²⁹ National Data Petition at A-13.

³⁰ See Bell Atlantic Direct Case at Appendix B-2.

³¹ See NYNEX Direct Case at 10-11.

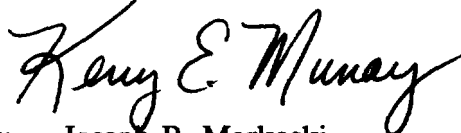
³² See ETI Report at 29-30.

III. CONCLUSION

For all of the reasons set forth above and in more detail in the ETI Report accompanying this opposition, the Commission should: (i) require the LECs to exclude from their cost support costs improperly classified as exogenous; (ii) require those carriers that have used five-year levelized demand assumptions to adjust their demand methodologies; and (iii) direct the carriers to reduce their basic 800 data base rates accordingly.

Respectfully submitted,

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Analysis of Local Exchange Carrier 800 Data Base Direct Case Filings

Docket Number 93-129*

I. Introduction and preliminary conclusions

As we stated in our original analysis of the 800 data base tariffs back in March of 1993, 800 data base access service is the archetypical bottleneck monopoly service.¹ Since its implementation on May 1, 1993, the 800 data base has been the only method available for routing 800 calls through the US telecommunications network. 800 number services are the fastest growing telecommunications market segment in the US; a substantial portion of the volume of 800 calls involve short-duration transactions processing applications such as credit card validations and point-of-sale data communications. These transactions are believed to be growing at a higher rate than voice 800 calls. Because the Commission has authorized 800 data base costs to be recovered on a per query basis, short duration 800 calls are particularly susceptible to severe adverse price impacts.

Major LECs originally submitted their 800 data base related tariff changes on March 1, 1993. These submissions were required to comply with the Commission's cost allocation

* This paper was prepared by Susan M. Gately and Cherie M. Abbanat of Economics and Technology, Inc. (ETI).

¹ See, ETI Report entitled *Local Exchange Carrier Tariffs for 800 Database Service*, dated March, 1993.

*Analysis of Local Exchange Carrier 800 Data Base Direct Case Filings
Docket 93-129*

and ratemaking determinations in CC Docket 86-10.² In its review of this 800 data base tariff and cost support material, the FCC found a number of the practices used to develop and attribute costs to 800 data base service to be questionable, and instituted an investigation to determine the appropriateness of those costs.³ The discussion which follows below is based upon our analysis of the Direct Case materials filed by the Price Caps LECs, particularly as those filings impact the development of costs for the basic query charge.⁴

The importance of the development of the basic query charge can not be overstated. Remember, 800 data base access service is more than just the monopoly basic query service. The service enables LECs to provide several vertical call routing and management features that can compete directly with similar offerings available in data base enhancements offered by long distance carriers. Some of the same functionality could also be engineered into communications and data processing equipment. Thus, the service is, indeed, a bottleneck in the literal meaning of the term: The 800 data base is an essential input for services that compete with prospective LEC offerings.⁵

² Provision of Access for 800 Service, *Second Report and Order (Order)*, CC Docket 86-10 (FCC 93-53), January 29, 1993 (the *Order*). The tariffs were also required to comply with several other requirements for those portions that are treated as "new services," the vertical feature capabilities, and for the basic query fee treated as a restructured service under Price Caps. See Policy and Rules Concerning Rates for Dominant Carriers, *LEC Price Cap Reconsideration Order* CC Docket 87-313 (FCC 91-115), April 17, 1991 and Creation of Access Charge Subelements for ONA, *Report and Order*, 6 FCC Rcd. 4524, 1991.

³ *Designation Order*, 8 FCC Rcd at 5132. The LECs initial Direct Case filings made in September, 1993 relied upon the use of proprietary software models and were not in compliance with the requirements of Docket 93-129. Supplemental filings were made on March 15, 1994.

⁴ For this paper the Direct Case filings of the following LECs were analyzed: Ameritech, Bell South, Bell Atlantic, NYNEX, Pacific Bell, Southwestern Bell, and US West.

⁵ Indeed, any application markets like transactions processing that will be adversely affected by per call charge could be subject to migration pricing strategies if the basic query charges were set too high. The LECs control the access links used for the vast majority of all credit card verification and other point-of-sale telecommunications (continued...)

*Analysis of Local Exchange Carrier 800 Data Base Direct Case Filings
Docket 93-129*

ETI was asked to review these LEC 800 data base tariff Direct Case materials and to prepare an analysis. As we discuss in more detail below, despite the Commission's request for more specific and detailed data the Direct Case materials offered by many of the different exchange carriers still lack the appropriate level of detail. As was the case more than a year ago, the carriers' presentations still contain many generalities, references to underlying studies that are not provided, or other defects which make full analysis virtually impossible. Our analysis of the Direct Case material supports the following conclusions:

1. The LECs *have not met their burden of proof* that their exogenous costs are appropriate.
2. A number of LECs have continued to allocate costs to the exogenous category that are not authorized by the Commission *Order*.
3. The level of detail that some of these LECs have given to support their burden of demonstrating that additional exogenous costs should be recovered from their customers is limited to statements like that of Bell Atlantic that "inclusion in the calculation of exogenous costs is appropriate."⁶

⁵ (...continued)

applications and will continue to exercise such control even when new services and technology are available. By virtue of their control of these services, the LECs will have the ability to artificially suppress demand for one service and/or increase the demand for the other — by pricing practices, service quality differences and other means.

⁶ *Supplement to Direct Case of Bell Atlantic: Alternative Cost Support*, p. 2. It must be remembered that normal operation of the Commission's extremely generous Price Caps plan, designed to stimulate LEC investments, provides these LECs with substantial and growing compensation. In order for 800 users to have to pay more for allegedly "exogenous" costs not recognized by the Commission, the burden must be on the LECs to demonstrate that ratepayers are not paying twice for the same investment. That burden has generally not been met.

*Analysis of Local Exchange Carrier 800 Data Base Direct Case Filings
Docket 93-129*

4. In addition to those carriers who allocated unauthorized costs to the exogenous category, several LECs argue for application of fully-allocated overhead cost factors to exogenous cost estimates contrary to the express terms of the Commission's *Order*. The justification provided for the inclusion of these overheads costs is not compelling.
5. Some carriers have continued to use a levelized future demand to account for the exogenous costs and the effects of the Commission's required treatment of basic queries as a restructured service. Use of a levelized future demand will compensate the LECs twice, once within the calculations contained in the current submissions and again when normal growth in demand raises the Price Cap Index over time. No LEC has adequately justified *why* the use of a levelized future demand will not result in overcompensation under the Price Caps plan.

The discussion that follows is limited to a subset of the Issues designated by the Commission for investigation in this proceeding. In particular, we will address the following questions:

Issue 3: The reasonableness of the price cap LECs' 800 data base rates.

Subissue A: Are the exogenous costs claimed by the price caps LECs reasonable?

Subissue B: Have the LECs used reasonable rate making methodologies in developing their basic query rates?

*Analysis of Local Exchange Carrier 800 Data Base Direct Case Filings
Docket 93-129*

II. The LECs have filed incomplete and confusing Direct Case materials and have clearly not met their burden of proof.

The vast majority of the additional information that it was necessary for the Commission to solicit through this tariff investigation should have been provided as part of the LECs' initial tariff filing support packages. The carriers clearly failed to meet their burdens of proof at the time of the initial filing. However, rather than disallowing exogenous costs that the LECs had not properly justified, the Commission instituted an investigation and allowed the carriers a second chance to justify their initial calculations. Once again the LECs have generally failed to step up to the task at hand. The Direct Case submissions still contain cost information that can only charitably be described as sketchy. In almost all cases, it is still virtually impossible to get "behind" the exogenous cost calculations of each of the carriers and know exactly what is included, and how the bottom line results were achieved.

The following section highlights the major problems discovered in the September 20, 1993 Direct Cases and March 15, 1994 "Supplements".

a. Ameritech

Ameritech's Direct Case submission fails to support the Company's 800 Data Base tariff.

- Ameritech failed to comply with the requirements of the *Designation Order*. A revised version of the *Designation Order*'s "Appendix B" should have been filed along with the revised exogenous cost estimates included with the March 15, 1994 "Supplemental Filing".